



OFFICE OF MANAGEMENT AND BUDGET

Request for Comments on Guidance Implementing Section 2(e) of the Executive Order of April 6, 2023 (Modernizing Regulatory Review)

AGENCY: Office of Management and Budget.

ACTION: Notice of availability and request for comments.

SUMMARY: The Executive Order of April 6, 2023 (Modernizing Regulatory Review) (hereinafter, Modernizing E.O.) calls for a number of reforms to the process through which the public requests meeting with the Office of Information and Regulatory Affairs (OIRA) on regulatory actions under review pursuant to Executive Order 12866 (E.O. 12866 meetings). These reforms are intended to facilitate the initiation of meeting requests from potential participants who have not historically requested such meetings, as well as to improve the efficiency and effectiveness of E.O. 12866 meetings. This notice announces and requests comment on guidance regarding these reforms.

DATES: Consideration will be given to all comments received by [INSERT DATE 60 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The draft guidance is available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/ModernizingEOSection2eDraftGuidance.pdf>. Submit comments by the following method:

- Federal eRulemaking portal: <https://www.regulations.gov>. Follow the instructions for submitting comments at the docket OMB-2022-0011. Comments submitted electronically, including attachments to <https://www.regulations.gov>, will be posted to the docket.

Please submit comments only and cite 12866 Meetings Guidance in all correspondence. To confirm receipt of your comment(s), please check [regulations.gov](https://www.regulations.gov), approximately two to three business days after your submission.

FOR FURTHER INFORMATION CONTACT: Office of Management and Budget, Office of Information and Regulatory Affairs, at MBX.OMB.OIRA.EOmeetingsguidance@omb.eop.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Executive Order 12866 of September 30, 1993, “Regulatory Planning and Review,” as amended, establishes and governs the process under which OIRA reviews agencies’ significant regulatory actions. E.O. 12866 meetings occur at the initiative of outside parties who request a meeting with OIRA about a regulatory action that is under OIRA review to present their views. OIRA invites to these meetings representatives from the agency or agencies that would issue the regulatory action, though participation may be limited by scheduling or other considerations.

E.O. 12866 meetings serve as listening sessions for OIRA officials. Members of the public can share their views with OIRA on a regulatory action under review, as well as any scientific, technical, social, or economic information, or information drawn from individual experience that may be helpful to OIRA officials while reviewing a regulatory action. During such meetings, OIRA officials may ask clarifying questions but will not share deliberative or pre-decisional information about the regulatory action under review.

E.O. 12866 meetings with OIRA are not a substitute for submitting comments to the action agencies under their applicable regulatory procedures.¹ OIRA typically reviews regulatory actions, such as rules, undertaken by other agencies. Accordingly, OIRA is not the action agency and views shared only through the E.O. 12866 review process would not be considered properly submitted during the notice and comment period.

II. Overview of Reforms

The Modernizing E.O. directs the OIRA Administrator to implement reforms designed to reduce the risk or the appearance of disparate and undue influence on regulatory development. The reforms outlined here serve to facilitate meeting requests from individuals and groups that have not historically requested such meetings, including those from underserved communities, improve the efficiency and effectiveness of the regulatory review process, and increase transparency around the

¹ See Executive Order 12866 section 10, 58 FR 51735, 51744 (Oct. 4, 1993) (“This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.”). The E.O. 12866 process also does not supersede the requirement to do Tribal consultation where it is required pursuant to E.O. 13175. See Executive Order 13175, 65 FR 67249 (Nov. 9, 2000).

E.O. 12866 meetings process, while treating all members of the public—no matter their resources or viewpoints—consistently and fairly. These reforms also help to implement President Biden’s Presidential Memorandum of January 20, 2021, “Modernizing Regulatory Review.” That Memorandum called for the Office of Management and Budget (OMB) to “identify reforms that will promote the efficiency, transparency, and inclusiveness of the interagency review process,”² which includes E.O. 12866 meetings. Reforms under consideration include:

- a variety of strategies to provide information to facilitate the initiation of meeting requests from potential participants that have not historically requested meetings;
- efforts to ensure access for meeting requestors that have not historically requested such meetings;
- discouraging meeting requests that are duplicative of earlier meetings with OIRA regarding the same regulatory action (at the same stage of the regulatory process) by the same meeting requestors;
- encouraging groups that would like to present similar views on a regulatory action to submit joint meeting requests wherever possible; and the
- disclosure of additional information about E.O. 12866 meetings that may be helpful to OIRA, to agencies, and to the general public, such as providing information about EO 12866 meeting requests in an open, machine-readable and accessible format

OMB is seeking comments on its proposed 12866 Meetings Guidance regarding reforms under consideration by [INSERT DATE 60 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]. The draft is available at <https://www.whitehouse.gov/wp-content/uploads/2023/04/ModernizingEOSection2eDraftGuidance.pdf>.

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² Modernizing Regulatory Review section 2(b)(iv), 86 FR 7223, 7224 (Jan. 26, 2021).